

STATE OF MICHIGAN
COURT OF APPEALS

HAROLD F. WINTERS,

Plaintiff-Appellant,

v

KURDZIEL IRON OF ROTHBURY and
CITIZENS MANAGEMENT, INC.,

Defendant-Appellee.

UNPUBLISHED

June 5, 2003

No. 242943

WCAC

LC No. 01-000396

Before: Bandstra, P.J., and Gage and Schuette, JJ.

GAGE, J. (*concurring*).

I concur in the result only. While I agree absolutely with the conclusions reached by my colleagues in this case involving a quad runner, which in this case is primarily an outdoor recreational vehicle, I do not join in the majority's overwhelming approval of the decision in *Weakland v Toledo Engineering Co, Inc.*, 467 Mich 344; 656 NW2d 175 (2003). I believe the Court in *Weakland* interpreted the term "appliance" in a very restrictive manner, and I fear its narrow interpretation could lead to rather harsh results in future interpretations of a statute that was designed to compensate employees in the event of employment-related injuries. It is my understanding of the worker's compensation scheme that employers are protected from the vicissitudes and potentially excessive damage awards of claims, in exchange for providing compensation to cover the reasonable and necessary services and products required as a result of the injury. Restricting the term "appliance" to items common to crutches and artificial limbs suggests that a device such as a motorized cart may not fall within the worker's compensation scheme – this, I believe is erroneous and unconscionable. A motorized cart is simply the next progressive device to assist in mobility. To deny a person who can no longer walk such a device is to sentence that person to a lifetime of dependency and imprisonment at home. Although I acknowledge that the *Weakland* Court did not hold that a motorized cart is not an "appliance" provided for in the statute, its restrictive interpretation of the statute could provide for such a future holding. Therefore, for the reason that the *Weakland* Court interpreted the statute much too narrowly and because it allows for future holdings that more progressive assistive devices may not be "appliances" provided for in the act, I cannot join the majority's opinion fully without distancing myself from the *Weakland* decision.

/s/ Hilda R. Gage